

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: NATIONAL COLLEGIATE) Docket No. 13 C 9116
ATHLETIC ASSOCIATION STUDENT-)
ATHLETE CONCUSSION INJURY) Chicago, Illinois
LITIGATION,) June 20, 2017
) 9:00 o'clock p.m.

TRANSCRIPT OF PROCEEDINGS - MOTION
BEFORE THE HONORABLE JOHN Z. LEE

APPEARANCES:

For the Plaintiffs: HAGENS BERMAN SOBOL SHAPIRO, by
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1 APPEARANCES: (Continued)

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1 (Proceedings had in open court:)

2 THE CLERK: Case 13 C 9116, NCAA Student-Athlete
3 Concussion Injury Litigation.

4 MS. SPELLMAN: Good morning, your Honor. Johanna
5 Spellman for the NCAA.

6 MR. KUROWSKI: Good morning, your Honor. Daniel
7 Kurowski for plaintiffs.

8 MR. McLAWHORN: Todd McLawhorn for plaintiffs.

9 MR. THOMASSEN: Good morning, Judge. Ben Thomassen
10 here for Mr. Nichols.

11 THE COURT: And we have Mr. Jefferson on the phone, is
12 that correct?

13 MR. JEFFERSON: Yes, your Honor.

14 THE COURT: All right. So the parties have filed a
15 status report with regard to the pending motion for an order to
16 show cause with regard to particular universities as to why
17 they have not responded to the subpoenas to identify class
18 members that were previously issued in this case. I understand
19 now that, at least as of the last filing, that there are two
20 universities that remain outstanding of the thousands or more
21 from whom data was sought. And that's Southern University.
22 Have you heard from them yet?

23 MS. SPELLMAN: I have, your Honor, and I can give you
24 a little bit of color and background. In the week or two
25 leading up to the filing of the motion on June 6, I heard from

1 an outside lawyer who was working with the university to pull
2 together that information. He told me that they were working
3 hard to pull it together, hoped to get it in before the filing.
4 That didn't happen.

5 And then on Friday afternoon I received a voicemail
6 message from the general counsel of the university who said
7 that that outside lawyer was no longer working with the
8 university. She had received service of the motion and was --
9 wanted some clarification as to what exactly was being sought.
10 I think the ball kind of got dropped somewhere along the line
11 perhaps when the outside lawyer left.

12 In any event, the university has told me that they
13 have pulled together the information. I received an e-mail
14 from them late last night and again this morning, saying that
15 they had the information. They were having some technical
16 problems uploading it to the notice administrator. I put them
17 in touch with the notice administrator. And so hopefully we
18 will get that very soon, perhaps hopefully today. So that's
19 what I've heard from Southern University.

20 University of Puerto Rico, Rio Piedras, they're sort
21 of in a unique situation. There are ongoing strikes at
22 campus -- at University of Puerto Rico campuses all spring. We
23 were unable to reach anyone at all, a live person, at the
24 university between the time that the -- we reached -- followed
25 up on the subpoena and the filing of the motion.

1 On Friday we were finally able to get in touch with
2 somebody who put us in touch with a person in the office of
3 legal counseling. They asked that we send the motion and the
4 subpoena to the director of the office of legal counsel, which
5 we did on Friday. We will follow up with them.

6 I have no reason to think that they won't comply.
7 It's, like I said, a kind of a unique situation at that
8 university, where I understand process servers have difficulty
9 getting on campus. You know, there may be lockdowns.

10 So we can continue to work, follow up with them. But
11 I think they are uniquely situated.

12 THE COURT: Okay. And where are we with regard to the
13 direct mailing campaign from the notice administrator?

14 MS. SPELLMAN: The notice administrator has begun to
15 send out the second wave of direct notice, I believe as of May
16 30. They are continuing to process the data as they continue
17 to receive it from the schools. So we are hopeful that will be
18 completed, you know, in the next few weeks.

19 THE COURT: All right. And so the timing, assuming
20 that Southern University and University of Puerto Rico, Rio
21 Piedras, provides you or the notice administrator with data in
22 the next couple of weeks, that won't delay any of the other
23 direct notices that are going out, is that correct?

24 MS. SPELLMAN: I don't believe so, your Honor.

25 THE COURT: Okay. And so given that it's, I guess,

1 formally plaintiff's motion, how does the plaintiff wish to
2 proceed with regard to the motion?

3 MR. KUROWSKI: We are amenable to giving the schools
4 time. It's just a handful -- two outlying situations at this
5 point. And based on the optimism from the NCAA in the fact
6 that notice is going out to so many others, direct individual,
7 directly that, you know, I think we are still well within
8 Rule 23 best notice practicable to members of the class,
9 notwithstanding these two schools.

10 THE COURT: All right. I am less optimistic than you
11 are with regard to obtaining prompt cooperation from the two
12 schools. And I do understand that these are two -- we only
13 have two schools left out of the, like I said, thousand-plus
14 schools that have provided the information to the settlement
15 administrator.

16 But still, the fact is that subpoenas were issued to
17 these two schools. And to the extent that they are not
18 complying, this Court will take action.

19 So I am going to enter and continue the motion with
20 regard to Southern University, Baton Rouge, and University of
21 Puerto Rico, Rio Piedras, to July 7, that's Friday, at 9:30.
22 Hopefully that will be enough time for the NCAA to work with
23 the two schools to get either the information or a specific
24 deadline by which the school will commit to providing
25 information.

1 The other issue that the parties have raised with
2 regard to Stillman College. So as I understand it from the
3 parties' submissions, Stillman College provided a list of
4 information with regard to students from 2000 onward. But they
5 have no way of determining which of those students participated
6 in NCAA- affiliated athletics?

7 MS. SPELLMAN: That's right, your Honor. I spoke with
8 their legal liaison, and she informed me that at some point
9 somebody had recommended that the information be coded in a way
10 that allowed student-athletes to be identified. But that was
11 never implemented.

12 THE COURT: And so just sending out notices, direct
13 notices, to all of the students from Stillman from 2000 onward
14 would cost about \$2,100?

15 MS. SPELLMAN: I believe that's right, or \$2,300.
16 Yes, your Honor.

17 THE COURT: All right. What do the parties recommend
18 with regard to Stillman?

19 MR. KUROWSKI: Your Honor, it's our position that we
20 should just spend the \$2,300 and issue the notice to all the
21 Stillman people. We prefer to have direct notice go to those
22 individuals that would otherwise get that, had the record-
23 keeping been more fulsome. So we would recommend or request
24 that the Court --

25 THE COURT: Ms. Spellman?

1 MS. SPELLMAN: Yes, that's certainly one option.
2 Another option might be to perhaps require that the college to
3 post the information about the settlement somewhere. But, you
4 know, there were -- we are certainly not opposed to sending
5 notice to everyone on that list.

6 THE COURT: Go ahead send notice to everyone on the
7 list.

8 Is there anything else we need to address today?
9 Hearing nothing, okay. Thank you.

10 MR. KUROWSKI: Thank you, your Honor.

11 MR. JEFFERSON: Thank you, Judge.

12 (Which were all the proceedings heard in this case.)

13 CERTIFICATE

14 I HEREBY CERTIFY that the foregoing is a true, correct
15 and complete transcript of the proceedings had at the hearing
16 of the aforementioned cause on the day and date hereof.

17
18 /s/Alexandra Roth

6/28/2017

19 _____
20 Official Court Reporter
21 U.S. District Court
22 Northern District of Illinois
23 Eastern Division
24
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Date